

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BAKKEN CONTRACTING, LLC,

Plaintiffs,

vs.

THE VENUE AT WERNER PARK, LLC, et al,

Defendants.

8:21CV269

**THIRD AMENDED
FINAL PROGRESSION ORDER**

THIS MATTER is before the Court on the motions of Defendant, The Venue at Werner Park, LLC (“Venue”), and Third-Party Defendant, Mahoney Fire Sprinkler, Inc., seeking the extension of certain progression order deadlines in this matter. (Filing Nos. [89](#) and [90](#).) The motions are granted. Accordingly,

IT IS ORDERED that the provisions of the Court’s previous final progression orders remain in effect, and in addition to those provisions, progression shall be amended as follows:

- 1) The trial and pretrial conference will not be set at this time. The status conference presently scheduled for July 13, 2023 is canceled. A status conference to discuss **case progression, the parties’ interest in settlement, and the trial and pretrial conference settings** will be held with the undersigned magistrate judge by telephone on **September 7, 2023 at 3:00 p.m.** Counsel shall use the conferencing instructions assigned to this case to participate in the conference. ([Filing No. 27](#).)
- 2) The deadlines for identifying expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the third-party defendant(s): **June 28, 2023**

Rebuttal: **July 17, 2023**

- 3) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the defendant(s): **June 28, 2023**

For the third-party defendant(s): **July 31, 2023**

Rebuttal: **August 15, 2023**

¹ While treating medical and mental health care providers are generally not considered “specially retained experts,” not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert’s treatment records and reports must be separately and timely disclosed.

- 4) In the event that the plaintiff identifies and/or discloses expert witness testimony pursuant to the rebuttal deadline outlined in paragraphs 2 and 3 above, Venue shall have an additional 15 days thereafter to identify and/or disclose rebuttal expert witness testimony thereto.
- 5) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **September 18, 2023**.
 - a. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is 10.
 - b. Depositions will be limited by Rule 30(d)(1).
- 6) The deadline for filing motions to dismiss and motions for summary judgment is **October 18, 2023**.
- 7) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **September 29, 2023**.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 16th day of May, 2023.

BY THE COURT:

s/Susan M. Bazis
United States Magistrate Judge